



MEMORANDUM

TO: Tom Walsh  
FROM: John Fandel  
DATE: January 27, 1993  
RE: Desimone Trust -- Port of Seattle Intertidal Project

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I had an interesting and informative meeting this morning with Dave Sweeney, Rick Anderson of Seafirst Bank, and George Blomberg of the Port of Seattle. Dave and I informed Rick about the origins and nature of the Port's proposed intertidal restoration project and other demonstration projects on the Duwamish waterway, as well as possible ramifications on any future development proposals on the Desimone Trust property. George also dropped off a bevy of documents, including a copy of the project design maps (attached, for your perusal) which I reviewed yesterday at King County's Department of Development and Environmental Services, as well as a copy of their the Port's application to the Corps of Engineers for a Department of the Army permit.

We also discussed the possibility of coordinating with the Port and interested federal agencies for the removal of the derelict ferry boat. George seemed interested in pursuing this issue. Money could be saved if ferry removal were done contemporaneously with the remaining restoration and dredging activities. The Port once received an estimate for ferry removal in the \$100,000 range, so it dropped initial plans to include removal of the ferry boat from its final project design. George also indicated that there is a small possibility that additional federal money could become available for this intertidal restoration project if one of the other three planned demonstration projects is delayed. However, removal of the ferry boat would probably not be authorized under the project's Shoreline Substantial Development Permit (expected in about two to three weeks), because the Port deleted ferry removal from the final project description. To try and include ferry removal in the permit now would delay issuance of the permit and require new public notice and comment periods. However, if the permit were issued and ferry removal were not allowed thereunder, a new shoreline permit would have to be obtained for such removal, a process that would take at least four months.

In the next day or so, I will draft, for your review, a letter to the Trust addressing these and related issues.

cc: Dave Sweeney

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February 18, 1993

Mr. Richard A. Anderson  
Seattle-First National Bank  
Real Estate Investment Services CSC-9  
9th Floor, Columbia Seafirst Center  
701 Fifth Avenue  
Seattle, Washington 98124

Re: Port of Seattle Intertidal Restoration Project  
Adjacent to Desimone Trust Oxbow Property

Dear Mr. Anderson:

You have asked us to provide you with a brief analysis of the Port of Seattle's proposed Intertidal Habitat Restoration Project (the "Project") adjacent to the Oxbow Property owned by the Desimone Trust (the "Trust"), and the probable effects the Project could have on the development potential of the Oxbow Property. In preparing this analysis, we reviewed permit files and history at the King County Department of Development and Environmental Services, met with the Port of Seattle's Project Manager, George Blomberg, contacted permit authorities at the U.S. Army Corps of Engineers and the Department of Ecology, and viewed the Property and the Project site.

Project Description. The Port of Seattle (the "Port") owns the parcel of property along the west bank of the Duwamish Waterway immediately to the north of and adjacent to the Trust's Oxbow Property. The Project is co-sponsored by the Port and several federal agencies, including the U.S. Fish and Wildlife Service, the Environmental Protection Agency, ("EPA") and the U.S. Army Corps of Engineers (the "Corps"). It is one of four habitat restoration demonstration projects being proposed for the Duwamish Waterway under the auspices of "Coastal America," an initiative by former President Bush to ally federal agencies with state, local and tribal governments to establish coastal restoration projects on a nationwide basis. The attached memorandum from the Duwamish Restoration Advisory Group illustrates the breadth of official participation and support for these habitat restoration projects in general, and the four

Mr. Richard A. Anderson  
February 18, 1993  
Page 2

Duwamish Waterway projects in particular. The federal government is supporting the Project with \$90,000 in grant money, and the Port itself is evidently going to spend some \$160,000 of its own money and, of course, provide the site.

The Intertidal Habitat Restoration Project (the "Project") contemplates that a certain portion of the existing upland, which actually consists of fill material placed in the former aquatic areas of the Duwamish estuary, will be excavated for the purpose of restoring intertidal conditions to the site. Approximately 3,200 cubic yards of sand and soil fill material will be excavated, and existing upland site elevations will be reduced to intertidal elevations. According to tests performed by the Corps, the excavation materials are generally free of contamination and will be placed at approved offsite disposal locations. After excavation, the restored intertidal area will be vegetated with emergent marsh vegetation native to the Duwamish estuary, and adjacent shoreline areas above the level of tidal influence will be vegetatively stabilized using native riparian plant materials.

Site restoration shall also include removal of two existing derelict steel barges from the shoreline. The initial restoration plans for this site also contemplated removal of the nearby burned-out ferry boat, which evidently lies across the property line between the Desimone Trust's Oxbow Property and the Port's Property. However, when the Port learned that removal of the ferry could cost as much as \$100,000, it apparently decided the cost was too great and dropped ferry removal from their final project plans.

The Project also contemplates the installation of rip-rap for shoreline stabilization slightly below the waterline, and the installation of a debris control barrier consisting of treated wood pilings, 60 feet apart, connected with floating logs placed at the waterward position of the site, to prevent floating debris from being washed into the restored area. Project plans were recently modified in response to concerns raised by tribal fishermen that their fishing nets would become entangled in the floating log boom, so the floating logs were made removable so that tribes could move them aside while fishing in the area.

Required Permits. The Project will require several permits before work can begin. First, the Port will require a shoreline Substantial Development Permit ("SDP") from King County pursuant to the Shoreline Management Act of 1971. The Port applied for an SDP in August 1992, and King County continues to process this permit, with approval expected by late February 1993. The Port will also require water quality certification for excavation

Mr. Richard A. Anderson  
February 18, 1993  
Page 3

activities from the Washington Department of Ecology, and hydraulic project approval ("HPA") for alteration of the shoreline from the Washington Department of Fisheries.

The Port will also need an individual Department of the Army ("DA") permit from the Corps under § 10 of the federal Rivers and Harbors Act and under § 404 of the federal Clean Water Act. Individual DA permits are usually very difficult and time consuming to obtain from the Corps of Engineers. However, as the attached memorandum underscores, permitting for this project will be "cooperative" to say the least, and most of the federal and state permitting authorities are already involved in the design and promotion of these projects. It is therefore likely that the Corps, the EPA and other agencies will work together to permit the Project as rapidly as possible.

Possible Effects of the Project on Trust Property.

Completion of the Project could have negative effects on future development plans for the Oxbow Property, although these effects are difficult to quantify and there ultimately may be little the Trust can do about them. The chief effect is that the existence of ecologically sensitive, newly-restored intertidal habitat, located adjacent to and immediately downstream from the Oxbow Property, will cause existing activities and plans for future development on the Oxbow Property to be viewed with greater scrutiny, especially existing and potential activities with adverse water quality effects. The Trust may find future approval of development proposals on the Oxbow Property slightly more difficult to obtain, and may be required to implement additional mitigation measures relating to stormwater management and the use of hazardous substances, even in cases where development is approved. Obtaining approval for construction of a dock alongside Trust property could also be made more difficult by the Project, but probably only marginally so, because obtaining approval for a dock in that location already presents significant permitting challenges unrelated to the proposed habitat restoration. These concerns, however, would be difficult to translate into effective opposition to a Project which has habitat restoration as its primary goal and which clearly has the support of most permitting authorities.

Ferry Boat Removal. An unresolved issue is the future of the burned ferry hull that evidently lies across the property line between the Port's property and the Trust's property. As mentioned above, the original plans called for the removal of the ferry, until the Port learned of the probable expenses involved. However, the Port and the federal agencies remain interested in removing the ferry as soon as possible. While the Port and the federal agencies claim they lack additional funds to include

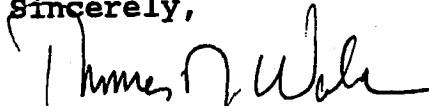
Mr. Richard A. Anderson  
February 18, 1993  
Page 4

ferry removal as part of the current Project, we understand that additional federal funds allocated for one of the other three Coastal America restoration projects proposed in the Duwamish Waterway could be made available for this purpose. Because the Trust itself may eventually desire to remove the ferry, there may be a benefit in pursuing removal of the ferry concurrently with construction of the restoration project. Construction equipment equipped for ferry removal will already be on-site, particularly the equipment required to remove the derelict barges. Also, ferry removal would be subject to many of the same permits required for the restoration activities, and could therefore be included within the scope of work of the Project's permits. The Trust may therefore want to consider pursuing removal of the ferry in conjunction with the restoration activities and evaluate how much of its own money it would be willing to contribute to a cooperative removal.

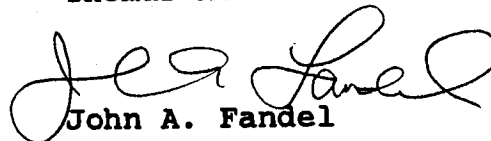
Comprehensive Environmental Review. Finally, the Trust may wish to take this opportunity to engage in a comprehensive review of possible contamination on and stormwater discharges from the Oxbow Property, especially relating to past and present tenant activities. One possible result of the Project could be heightened scrutiny of all activities occurring on the Oxbow Property, and the Trust may want to be informed and prepared. The Port has informed us that it believes the tenant, Mr. Scheumann, has stored materials on Port and on Trust property that have leaked hazardous materials. It is also the Port's understanding that Mr. Scheumann has bulldozed material over the bank line into the water, and has received a notice of violation from King County that is currently being processed. We could assist the Trust in defining the scope of such a comprehensive review and selecting qualified consultants to perform the review.

We hope this answers your questions regarding the Port's proposed habitat restoration project. Please call if you have any additional questions or need additional information.

Sincerely,



Thomas M. Walsh



John A. Fandel

TMW:jef  
Enclosure  
CC: David B. Sweeney

RECEIVED



JUL 1 1992

July 7, 1992

King County Bldg. & Land  
LAND USE CONTROLS

MEMORANDUM

RECEIVED

JUL 1 1992

Subject: Duwamish Restoration Advisory Group Meeting

From: *M. Zuko*  
Coastal America restoration project proponents

To: Addressees

The advisory group is invited to review the status and current design of the four proposed intertidal restoration projects.

Meeting Time: Friday, July 17th  
1:00 to 3:p.m.  
Seattle District Corps  
Fort Lewis Room

In the time since we last met, the Coastal America partners have developed draft final engineering designs for the GSA and Turning Basin sites. For a number of reasons that will be presented, we have also revised the conceptual designs for the Dakota Street/Terminal-105 and Duwamish Park sites. We would also like use this meeting to present the results of our sediment chemistry analyses and the current version of our monitoring design.

We would like to move ahead with permit processing for the GSA and Turning Basin sites in the very near future so your comment on these draft final engineering designs would be greatly valued.

If you have any questions please do not hesitate to call Curtis Tanner at 753-9440.

K. Northup, Corps  
N. Iadanza, NOAA/NMFS  
D. Cargill, WDOE  
J. Frost, WDOE  
R. Malcolm, Muckleshoot Tribe  
F. Weinmann, EPA  
R. Thom, Battelle  
C. Simenstad, UW/FRI  
B. Ziegler, WDW  
R. Carmen, WDF  
G. Blomberg, POS  
R. Nishi, Seattle Parks  
M. Bowles, King County

J. Green, Corps  
C. Mebane, NOAA  
J. Polayes-Wein, WDOE  
R. Vining, WDOE  
M. Duncan, Suquamish Tribe  
V. Hassinger, Seattle DWU  
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E. Schein, DCLU  
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EXHIBIT 2